IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: SHUSTER et al.	
	Art Unit: 2154
Serial No.: 09/648,474	
Filed: August 21, 2000	Examiner: Dustin Nguyen
Title: METHOD, APPARATUS AND SYSTEM FOR HOSTING INFORMATION EXCHANGE GROUPS ON A WIDE AREA NETWORK	

AMENDED APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir or Madam:

The appellant filed a Notice of Appeal in the above-identified application on 8 February 2006 under 35 U.S.C. § 134(a), and submitted an Appeal Brief under 37 CFR 41.37 (hereinafter "Rule 41.37") on June 7, 2006. This Amended Appeal Brief is submitted in response to a Notification of Non-Compliant Appeal Brief mailed August 30, 2006. The appellant respectfully submits that the Amended Appeal Brief meets the

substantive requirements of Rule 41.37. The appellant requests entry, consideration, and favorable action on this appeal at the Office's earliest convenience.

Real Party in Interest

Ideaflood, Inc., a Nevada corporation, owns the subject application.

Related Appeals and Interferences

Neither the assignee nor the appellant are aware of any other appeals or interferences that would bear on the Board's decision in this appeal.

Status of Claims

On February 8, 2006, the appellant filed a Notice of Appeal from the final rejections of pending Claims 50-69 as stated in the Official Action mailed on August 19, 2005 (hereinafter the "Final Action"). Claims 1-49 were previously cancelled. All of Claims 50-69 have been finally rejected and all of these rejections are being appealed.

Status of Amendments

No amendments have been denied entry.

Summary of Claimed Subject Matter

A concise explanation of the subject matter defined in each of the appealed independent claims and separately argued dependent claims is provided in this section. None of the dependent claims include step-plus-function or means-plus-function limitations, and therefore the provisions of 37 CFR § 41.37(c)(1)(iv) are not applicable to the dependent claims. Nonetheless, for the convenience of the Examiner and Board of Patent Appeals, exemplary support provided by the specification corresponding to each

claimed limitation is provided for each independent claim and for each separately-argued dependent claim, with reference to the specification by page and line number, and to the drawings, if any, by reference characters.

Claim 50   Claim 50 is the only independent claim at issue, and is directed to a method for serving a topically organized information resource comprising user posts and links to other resources for the topic, receiving user ratings signifying relevance of posts and links, calculating an aggregate measure of relevance for each item rated, and providing the relevance measure in association with the posts and links. In this way, the information resource can evolve to a higher level of organization and usefulness. More exactly, as defined by claim 50, the method comprises the particular steps set forth below:

A. Serving a topically organized information resource over the wide area network, the information resource comprising a defined topic of information, posts of information from users, and a plurality of links to respective different remote information resources each containing information related to the topic. Page 12, lines 7-14; page 12, line 27 – page 13, line 5; Fig. 1B, item 136.

B. Receiving user ratings from the users, the user ratings signifying relevance of respective ones of the posts and of the remote information resources to the defined topic. Page 15, line 20 – page 16, line 16; page

29, line 18 – page 30, line 13; page 36, line 1 – page 37, line 24; fig. 6A, items 604, 606; fig. 8, items 804, 806.

C.   Aggregating the user ratings to provide aggregate relevance ratings data.   Page 31, line 29 – page 33, line 27; fig. 6C, item 628; fig. 6D, item 680; page 37, lines 21-24; page 43, line 18 – page 44, line 14. An "aggregate" is expressly defined as "any statistical measure the reflects the overall value of a set of quantitative ratings, such as a sum, a weighted average, a simple average, a rolling average, a median value, or similar measure." Page 32, lines 24-26.

D.   Providing access to the aggregate ratings data in association with the posts of information and with the plurality of links.   Page 29, line 18 – page 30, line 2; fig. 6B, item 672; page 45, line 27 – page 46, line 25; Fig. 11C, item 1160.

<u>Claim 51</u>   Dependent claim 51 is separately argued.   Claim 51 depends from claim 50, and contains the additional limitation "*modifying the topically organized information resource to prioritize information according to the aggregate ratings data.*" Page 33, line 26 – page 34, line 10; page 37, lines 1-24; page 39, lines 20-29; fig. 9, steps 902-904; page 40, lines 18-26; fig. 10, step 1006; page 43, line 28 – page 44, line 16; fig. 11, steps 1108–1114; page 47, lines 7-13; fig. 12, step 1210.

Claim 52   Dependent claim 52 is separately argued.   Claim 52 depends from claim 50, and contains the additional limitation "*serving the information resource including a vote object configured for providing the users an option to rate the posts according to predetermined rating values.*"   Page 19, line 18 - page 30, line 25; fig. 6B, items 660-668.

Claim 53   Dependent claim 53 is separately argued.   Claim 53 depends from claim 50, and contains the additional limitation "*displaying the posts in a ranked order according to the aggregate ratings data.*"   Page 33, line 26 – page 34, line 21; fig. 5A, item 600.

Claim 54   Dependent claim 54 is separately argued.   Claim 54 depends from claim 50, and contains the additional limitation "*displaying the plurality of links in a ranked order according to the aggregate ratings data.*"   Page 36, line 1 – page 37, line 24; fig. 5A, item 700.

Claim 55   Dependent claim 55 is separately argued.   Claim 55 depends from claim 50, and contains the additional limitation "*compiling the user ratings for subject matter received from a specific source to provide source-associated rating data.*"   Page 40, lines 1-17; fig. 10A, item 1004; fig. 10B, items 1024, 1041-1049.

Claim 56   Dependent claim 56 is separately argued.   Claim 56 depends from claim 55, and contains the additional limitation "*ranking a plurality of information sources*

according to the source-associated rating data for each source." Page 40, line 18 – page 41, line 8; fig. 10A, item 1006; fig. 10B, item 1050.

Claim 57 Dependent claim 57 is separately argued. Claim 57 depends from claim 55, and contains the additional limitation "*providing the users an option to receive the source-associated rating data for each user that has provided subject matter to the topically organized information resource.*" Page 42, lines 15-29; fig. 10C, item 1060.

Claim 58 Dependent claim 58 is separately argued. Claim 58 depends from claim 55, and contains the additional limitation "*receiving preference information from the users, wherein the preference information specifies a threshold criteria for filtering the posts according to the source-associated rating data applied to the contributor of each post of the posts.*" Page 43, lines 8-14; page 52, lines 15-17, fig. 13A, item 1302; fig. 13B, item 1348.

Claim 61 Dependent claim 61 is separately argued. Claim 61 depends from claim 50, and contains the additional limitation "*serving at least one of the respective different remote information resources comprising a second defined topic of information, a second plurality of posts of information from users, and a second plurality of links to respective different remote information resources each containing information related to the second topic.*" Page 37, lines 25-26; fig. 7, item 700; page 38, lines 1-12; fig. 8, item 802.

Claim 64   Dependent claim 64 is separately argued.   Claim 64 depends from claim 50, and contains the additional limitation "*receiving preference information from users, wherein the preference information specifies a threshold criteria for filtering the posts according to the aggregate ratings data.*"   Page 52, lines 4-22; fig. 13A, item 1302; fig. 13B, item 1346.

Claim 65   Dependent claim 65 is separately argued.   Claim 65 depends from claim 64, and contains the additional limitation "*serving an interactive tolerance bar for providing the users an option to send the preference information.*"   Page 29, lines 22-24; fig. 6B, item 670; page 52, lines 20-22.

Claim 66   Dependent claim 66 is separately argued.   Claim 66 depends from claim 50, and contains the additional limitation "*serving at the respective different remote information resources each comprising at least one link back to the information resource.*"   Page 14, lines 14-17; fig. 3A, item 326'; page 37, line 28 – page 38, line 10; page 39, lines 10-13; page 27, line 26 – page 28, line 21; fig. 5C, item 590.

Claim 68   Dependent claim 68 is separately argued.   Claim 68 depends from claim 50, and contains the additional limitation "*defining a plurality of topics for the posts of information, and storing the topics in the memory.*"   Page 18, line 14 – page 20, line 23; fig. 4, items 400, 424.

Claim 69   Dependent claim 69 is separately argued.   Claim 69 depends from claim 50, and contains the additional limitation "*grouping the posts in a plurality of*

topically organized interlinked information resources according to the ratings data, wherein each of the interlinked information resources comprises posts relevant to one of the plurality of topics." Page 14, line 6 – page 16, line 16; Figs. 3A, 3B; page 39, lines 20-24; Fig. 9, item 900.

Grounds of Rejection To Be Reviewed on Appeal

Claims 50-69 stand rejected under 35 U.S.C. § 103(a) over Herz (U.S. Pat. No. 6,460,036) in view of Rose (U.S. Pat. No. 5,724,567). This ground of rejection is to be reviewed on appeal. No other grounds for rejection have been set forth.

Argument

A. General Requirements For A Prima Facie Case of Obviousness

MPEP § 2143 states the basic requirements for a *prima facie* case of obviousness under § 103(a) as follows:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not

in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Furthermore, a prior art reference must be considered in its entirety, that is, as a whole, including portions that would lead away from the claimed invention. M.P.E.P. § 2141.02; *Bausch & Lomb v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448, 230 USPQ 416, 420 (Fed. Cir. 1986). As the Court in Bausch & Lomb affirmed, "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art." *Id., citing In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965). Among other things, it is improper to combine references without consideration for parts of the references that would have led one of ordinary skill away from the invention. *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 296-297, 227 USPQ 657, 669 (Fed. Cir. 1985); M.P.E.P. § 2145(X)D(2). Even if the cited references themselves do not expressly teach away from the invention, the prior art must be considered as a whole, as it would have been viewed by one of ordinary skill in the art. *In re Hedges*, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986).

The present rejections of the claims under 35 U.S.C. § 103(a) are based on references that do not teach or suggest all of the claimed limitations. In addition, the evidence as a whole does not suggest the proposed combinations of prior art

references. Instead, isolated portions of references have been used to reconstruct the invention using hindsight, while the deficiencies of the references have also been overlooked.

B. Claim 50 Is Allowable Over Herz And Rose

The rejection of claim 50 as unpatentable over Herz and Rose under § 103(a) is deficient for failing to state a *prima facie* case of obviousness. The proposed combination of Herz and Rose fails to teach or suggest several features recited in independent claim 50, contrary to the requirements of MPEP § 2143 and legal precedents discussed above.

Herz discloses a method of providing customized electronic newspapers and target advertisements that are "most likely to be of interest to each user" based on a "target profile interest summary [that] describes the user's interest level in various types of target objects." Col. 1:19-43. More specifically, Herz defines a "target profile interest summary" as "a summary of digital profiles of target objects that a user likes or dislikes." Col. 4:56-59. A target object is any object "available for access by a user"; examples include a newspaper article, a movie, an item to buy, e-mail to receive, or another person to correspond with. Col. 4:50-52; 6:12-15. Herz teaches that the system should evaluate the profiles of target objects "against the users' target profile interest summaries to generate a user-customized rank ordered listing of target objects." Col. 5:8-22. In other words, Herz is concerned with predicting users' tastes in prospective

new objects based on evaluating their reactions to, or interactions with, past objects. Col. 79:45-57. As such, Herz fails to disclose, and teaches away from, the invention as defined by claim 50.

In particular, Herz fails to disclose the combination of serving (A) "*a topically organized information resource over the wide area network, the information resource comprising a defined topic of information, posts of information from users, and plurality of links to respective different remote information resources each containing information related to the topic*" in combination with (B) receiving "*user ratings from the users, the user ratings signifying relevance of respective ones of the posts and of the remote information resources to the defined topic, the user ratings determined by respective ones of the users after reviewing respective ones of the posts and of the remote information resources.*" Although Herz discloses generally the application of its predictive filtering methods to computer bulletin boards and newsgroups (see Herz col. 74:10 et. seq.), this is only for the purpose of presenting the bulletin boards and newsgroups as another species of "target object" according to Herz's method summarized above. Herz, col. 79:66 – 80:9. As explained in more detail below, Herz does not disclose the steps of serving an information resource of the type defined by claim 50, and also fails to disclose gathering user ratings concerning relevance of posts and linked information objects to a defined topic.

Moreover, there has been no showing that computer bulletin boards or newsgroups read on the element of the single "topically organized information resource," which, as defined by claim 50, must include both user posts and links to remote resources. Neither a "cluster" nor a "cluster profile," disclosed in Herz at col. 4:65 – 5:1 discloses the element of user ratings signifying "relevance of respective ones of the posts and of the remote information resources to the defined topic." A cluster as disclosed by Herz is merely a "collection of target objects with similar profiles." Herz uses "profile" in the sense of a collection of attributes. *See, e.g.*, col. 4:52-56. A collection of objects sharing similar attributes is in no sense a "a defined topic of information." A topic is a "heading" or a "subject of a discourse." Merriam-Webster Online, http://www.m-w.com/cgi-bin/dictionary. The information resource defined by claim 50 must therefore have a defined heading or subject (i.e., topic) as well as its collection of messages and links. Herz discloses forming a cluster of published articles based on a similarity of *topics* between the articles, and thus Herz expressly teaches that there is no single defined topic for a resource comprising both user posts and links to remote resources. Col. 5:32-38. Instead, the cluster is made up of articles with a plurality of topics.

Additionally, Herz fails to disclose the act of serving a topical information resource that includes both posts of information by users and links to different remote resources on the topic. At col. 12:31-36 (discussed on page 4 of the Final Action),

Herz merely discloses that popularity of an object may be measured by the number of replies to a message in a newsgroup, or the number of links leading to a hypertext document. This plainly does not amount to a disclosure of serving a single resource with both messages and links relating to a topic, as defined by claim 50.

Herz also fails to disclose the step of receiving user ratings as defined by claim 50. The term "user rating" should not be construed to include any sort of interest information gathered from users, either directly or indirectly. A "rating" according to its commonly understood meaning is a "relative estimate or evaluation." Merriam- Webster Online, http://www.m-w.com/cgi-bin/dictionary. According to claim 50, these ratings must be "determined by the users" and must signify "relevance of respective ones of the posts and of the remote information resources to the defined topic." A mere indication of interest in a piece of information, as disclosed by Herz and Rose, lacks these specific elements of claim 50. A mere indication of interest lacks information about topical relevance. A user may be interested in many different topics. It is only when the user is answering the specific question, "how relevant is this information to topic 'A'?" that a user rating of the type defined by claim 50 can be gathered. Herz fails to disclose gathering this type of information from users.

The "Ringo system," disclosed in Herz at col. 3:17-25, does not disclose a step of receiving user ratings signifying "relevance of respective ones of the posts and of the remote information resources to the defined topic." The Ringo system merely entails

collecting feedback about whether users like or dislike particular musical selections. This is a far cry from the specific user ratings defined by claim 50. The Ringo system does not involve posts of information, linked remote information resources, or defined topics, so it clearly does not disclose this element of the invention. Moreover, the Ringo system is criticized as deficient prior art. Reading Herz as a whole, one of ordinary skill would not have been motivated to modify the automatic profiling system of Herz to use a Ringo-like feedback collection system.

Herz makes use of terminology that is misleading, when viewed in hindsight with the present application. Specifically, Herz uses the terms "relevance feedback" and "topical interest" differently than similar terms in claim 50, so that only in hindsight it seem to be disclosing the same element. When viewed in its entirety, Herz is in fact disclosing something different from what is claimed. First, Herz uses "relevance feedback" to refer to user feedback "as to whether or not [a] target object really is of interest." Col. 17:33-37. That is, it is merely a measure of user interest, and *not* a specific indication of relevance to a defined topic, as defined by claim 50. Second, Herz uses "topical interest" to refer to an estimated level of interest that other users will have in similar objects, such that a user's predicted level of interest in an object can be estimated by the "quality" of the object plus the "topical interest." Col. 18:51-55. Herz teaches that the topical interest may be computed by subtracting object quality from relevance feedback. Col. 19:18-34. Accordingly, topical interest is also a measure of

interest. It is not a specific indication of relevance to a defined topic, as defined by claim 50.

Thus, Herz fails to disclose receiving user rating data signifying relevance of the respective ones of the posts and remote objects to the defined topic of the single resource, as defined by claim 50. Simply put, Herz discloses a distinctly different method from the invention, and its coincidental similarities in terminology with claim 50 would not have motivated one of ordinary skill to practice the invention.

Rose does not make up for these deficiencies. Like Herz, Rose is concerned with predicting the interest or relevance of information to a *user* based on the user's level of interest in prior objects, and not to a *defined topic*. See, e.g., Rose, col. 2:19-47; 4:40-44; 6:28-33. Indeed, Rose specifically teaches against requiring users to select topical categories: "[r]ather than . . . requiring the users to select categories of interest, all available items of information are ranked in accordance with a predicted degree of relevance to the individual users." Col. 8:59-63. In other words, as with Herz, Rose discloses using the user profile to determine ranking of information, and not user ratings of relevance to defined topics. Claim 1, lines 14-16.

Failing to disclose the collection of relevance ratings determined by users with respect to the specific topic of an information resource comprising both user posts and links to remote topical information, Rose also fails to disclose aggregating such data. That Rose discloses "various ways of combining content and correlation scores" (Rose,

8:45-56) does not make up for its fundamental failure to disclose the collection of data as defined by claim 50. At most, this is merely a general statement that data elements can be combined in various ways. It would not have provided any guidance to one of ordinary skill to obtain and aggregate the claimed user ratings.

Likewise, Rose does not disclose "providing access to the aggregate ratings data in association with the posts of information and with the plurality of links," as defined by claim 50. Rose merely discloses ranking a list of messages according to a "predicted degree of relevance to the user." Col. 4:40-52; Fig. 3. This is deficient in several respects. A "predicted degree of relevance to the user" does not read on "the aggregate ratings data" as defined by claim 50. In addition, Rose fails to disclose providing any sort of ranking or rating in association with the plurality of links as defined by claim 50.

Therefore, failing to disclose or suggest all the claimed elements of the present invention, Herz and Rose present no bar to patentability under § 103. In addition, Rose specifically teaches away from requiring users to select topical categories, while Herz similarly teaches the alternative approach of profiling users, not topical information. Thus, considering these references as a whole, including the parts that teach away from the invention, these references fail to make the invention obvious.

Claims 59, 60, 62 and 63 stand together with claim 50.

C. Claim 51 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 51 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 51, which further defines "*modifying the topically organized information resource to prioritize information according to the aggregate ratings data.*"

Herz merely discloses offering search results that are relevancy ranked to user preferences. Col. 62:58-63. As noted above, Herz and Rose fail to disclose a topically organized information resource with both user postings and external links. These references also fail to disclose aggregate ratings data concerning the relevancy of the information to a defined topic. Lacking these elements of claim 51, Herz and Rose cannot disclose the claimed step.

Therefore, failing to disclose or suggest all the claimed elements of claim 51, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

D. Claim 52 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 52 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 52, which further defines "*serving the information resource including a vote object configured for providing the users an option to rate the posts according to predetermined rating values.*"

Herz merely discloses including ratings data, such as MPAA child-appropriateness ratings, in a target profile. Col. 10:13-15. Herz also comments that "[t]here are protocols on the Internet for voting to determine whether a newsgroup should be created." Col. 74:35-38. Herz falls far short of disclosing the step of serving the information resource including the vote object defined by claim 52. This vote object must operate to provide predetermined values by which the posts may be rated, and it must be included in the information resource defined by claim 50. As noted above, Herz does not disclose the claimed information resource. Herz also does not disclose a vote object configured in the claimed manner.

Therefore, failing to disclose or suggest all the claimed elements of claim 52, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

E. Claim 53 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 53 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 53, which further defines "*displaying the posts in a ranked order according to the aggregate ratings data.*"

As noted above, Rose merely discloses ranking a list of messages according to a "predicted degree of relevance to the user." Col. 4:40-52; Fig. 3. This is deficient in that a "predicted degree of relevance to the user" does not read on "the aggregate ratings

data" as defined by base claim 50. That is, Rose discloses displaying messages in a ranked order, but not according to the claimed aggregate ratings data.

Therefore, failing to disclose or suggest all the claimed elements of claim 53, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

F. Claim 54 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 54 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 54, which further defines "*displaying plurality of links in a ranked order according to the aggregate ratings data.*"

As noted above, Rose merely discloses ranking a list of messages according to a "predicted degree of relevance to the user." Col. 4:40-52; Fig. 3. This is deficient in that a "predicted degree of relevance to the user" does not read on "the aggregate ratings data" as defined by base claim 50. That is, Rose discloses displaying messages in a ranked order, but not according to the claimed aggregate ratings data. In addition, Rose does not disclose ranked ordering of links.

Therefore, failing to disclose or suggest all the claimed elements of claim 54, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

G. Claim 55 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 55 is independently allowable. Herz and Rose fail to disclose all the limitations of claim

55, which further defines "*compiling the user ratings for subject matter received from a specific source to provide source-associated rating data.*" A "source" in this context would be understood as the person or other entity responsible for supplying the content.

Herz merely discloses various attributes of information that may be useful in evaluating target profiles, for example the source of the object or a certification from a recognized source. Col 12:10-19; 12:36-44. However, claim 55 defines the different action of compiling user ratings for subject matter received from a specific source. For example, if user "Fred" has submitted 55 items to the information resource, and the average user rating for these items is "5" on a scale of 1 to 10, a source-associated rating of "5" may be provided for Fred. Herz fails to disclose or suggest this element.

Therefore, failing to disclose or suggest all the claimed elements of claim 55, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

H. Claim 56 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 55, claim 56 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 56, which further defines "*ranking a plurality of information sources according to the source-associated rating data for each source.*"

As noted with respect to claim 55, Herz fails to disclose or suggest developing or providing the source-associated rating data. Therefore Herz also necessarily fails to disclose ranking information sources according to such data. Although Herz discloses

ranking hyperlinks based on an estimate of user interest in the object associated with the hyperlink, this fails to disclose any use of source-associated rating data as defined by claims 55 and 56. According to claim 55, subject matter must be received from specific sources and user ratings of that subject matter must be used to rank the respective sources. A ranking of hypertext links does not read on or suggest this action for at least two reasons: first, a hyperlink is not a "source" as it merely directs a user to content located on the network. A "source" in the context of claims 56 and 55 would be understood as the entity responsible for supplying the evaluated subject matter. Second, an estimate of user interest in certain subject matter, as disclosed by Herz, is distinct from compiled user ratings indicative of the topical relevance of submissions from a source, as defined by claims 56 and 55.

Therefore, failing to disclose or suggest all the claimed elements of claim 56, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

I. Claim 57 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 55, claim 57 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 57, which further defines "*providing the users an option to receive the source-associated rating data for each user that has provided subject matter to the topically organized information resource.*"

Claim 57 specifically identifies "each user that has provided subject matter to the topically organized information resource" as being a source having associated rating data. As noted in connection with claims 55 and 56, Herz does not disclose rating sources based on user ratings of subject matter submitted by the source. Accordingly, Herz does not disclose providing such rating data for each contributing user of the information resource.

Therefore, failing to disclose or suggest all the claimed elements of claim 57, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

J. Claim 58 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 55, claim 58 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 58, which further defines "*receiving preference information from the users, wherein the preference information specifies a threshold criteria for filtering the posts according to the source-associated rating data applied to the contributor of each post of the posts.*"

As noted in connection with claims 55-57, Herz does not disclose rating sources based on user ratings of subject matter submitted by the source or any development of source-associated rating data. Accordingly, Herz does not disclose filtering based on such source-associated rating data. Herz generally discloses message filtering in columns 63-64, but fails to disclose any use of source-associated rating data as defined by claim 55 for filtering or any other use. Herz's mere disclosure of message filtering

does not make the invention obvious, because it fails to disclose or suggest filtering using the specific element of "source-associated rating data" as defined by claims 58 and 55.

Therefore, failing to disclose or suggest all the claimed elements of claim 58, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

K. Claim 61 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 61 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 61, which further defines "*serving at least one of the respective different remote information resources comprising a second defined topic of information, a second plurality of posts of information from users, and a second plurality of links to respective different remote information resources each containing information related to the second topic.*"

As discussed in connection with claim 50, Herz fails to disclose or suggest serving an information resource comprising a plurality of posts and links to remote topical resources. The information resource defined by claim 50, as shown above, must have a defined heading or subject (i.e., topic) as well as its collection of messages and links. Herz discloses forming a cluster of published articles based on a similarity of topics between the articles, and thus Herz expressly teaches that there is no single

defined topic for a resource comprising both user posts and links to remote resources. Col. 5:32-38. Instead, the cluster is made up of articles with a plurality of topics.

Although Herz discloses browsing by navigating through a cluster tree (cols. 65-68), it fails to disclose the claimed information resource. The cluster tree is made up of subclusters that "must be usefully labeled . . . in such a way as to suggest their content to the human user." Each subcluster is essentially a branch of a hierarchically organized information tree. Col. 65:15-27. Hierarchically organized information trees navigated using labeled links are a well-known and old feature of computer-organized data. The adoption of this well-known approach for organizing information by Herz is distinct from serving respective different information resources as defined by claims 50 and 61. Placing a label on collected content, as disclosed by Herz, is distinct from organizing the claimed specific types of information around a defined topic. Also, unlike Herz, no hierarchical organization is required or implied in the claimed method.

Therefore, failing to disclose or suggest all the claimed elements of claim 61, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

L. Claim 64 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 64 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 64 which further defines *"receiving preference information from the users, wherein the*

preference information specifies a threshold criteria for filtering the posts according to the aggregate ratings data."

The deficiency of Herz with respect to Claim 64 is acknowledged in the Final Action. It is argued instead that Rose discloses this element by disclosing that messages having a ranking below a certain threshold are not displayed, and that the selection threshold can be changed by the user. Col. 4:63 - 5:9. However, as discussed in connection with claim 50, Rose merely discloses ranking a list of messages according to a "predicted degree of relevance to the user." Col. 4:40-52; fig. 3. Rose is deficient in that a "predicted degree of relevance to the user" does not read on "the aggregate ratings data" as defined by claim 50. Rose does not disclose filtering the posts according to aggregate ratings data, because it does not disclose any use of aggregate ratings data.

Therefore, failing to disclose or suggest all the claimed elements of claim 64, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

M. Claim 65 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 64, claim 65 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 65 which further defines *"serving an interactive tolerance bar for providing the users an option to send the preference information."*

It is acknowledged that Herz does not disclose receiving preference information from users, and yet it is argued in the Final Action that Herz, at col. 18:13-27, discloses serving an interactive tolerance bar for this purpose. That is, Herz discloses that "a visual indicator, such as a sliding bar or indicator needle on the user's screen, can be used to continuously display the passive feedback score estimated by the system for the target object being viewed, unless the user has manually adjusted the indicator by a mouse operation or other means in order to reflect a different score for this target object." Id. Thus, Herz discloses using a slider or similar device to display a system-estimated score or to receive feedback from the user about a particular object. In comparison, claim 65 defines serving a bar as an input device for preference information, which by preceding claim 64 "specifies a threshold criteria for filtering the posts according to the aggregate ratings data." Herz therefore fails to disclose of the suggest serving a tolerance bar operative for sending preference information as defined by claims 65 and 64.

Therefore, failing to disclose or suggest all the claimed elements of claim 65, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

N. Claim 66 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 66 is independently allowable. Herz and Rose fail to disclose all the limitations of claim

66 which further defines "*serving at the respective different remote information resources each comprising at least one link back to the information resource.*"

As discussed in connection with claim 50, Herz fails to disclose or suggest serving an information resource comprising a plurality of posts and links to remote topical resources. Although Herz discloses browsing by navigating through a cluster tree (cols. 65-66; Figs. 3, 4), it fails to disclose the claimed information resource. The cluster tree is made up of subclusters that "must be usefully labeled . . . in such a way as to suggest their content to the human user." Each subcluster is essentially a branch of a hierarchically organized information tree. Col. 65:15-27. The adoption of hierarchically organized information trees by Herz is distinct from serving respective different information resources each having a link back to the original information resource, as defined by claims 50 and 66, because no hierarchical organization is required or implied in the claimed method. Also, Herz does not teach organizing the claimed information resource around a defined topic, and instead teaches characterizing existing content with a label.

Therefore, failing to disclose or suggest all the claimed elements of claim 66, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

Claim 67 stands with claim 66.

O. Claim 68 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 68 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 68 which further defines "*defining a plurality of topics for the posts of information, and storing the topics in the memory.*"

Herz derives cluster profiles or labels by analyzing information in a cluster. Col. 4:65 – 5:1; col. 23:13–27; col. 65: 56-62. This is the opposite of the method defined by claim 68, wherein the plurality of topics are defined *for* the posts of information. As the specification of the present application describes, topics are defined, and posts or other information are organized around the topics. Herz fails to disclose or suggest this proscriptive approach as claimed by claim 68. Likewise, Rose also teaches a predictive system that, at most, derives topical groupings *from* data, and does not define topics *for* posts. Rose does not make up for the deficiencies of Herz.

Therefore, failing to disclose or suggest all the claimed elements of claim 68, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

P. Claim 69 is allowable over Herz and Rose

In addition to being allowable as depending from allowable base claim 50, claim 69 is independently allowable. Herz and Rose fail to disclose all the limitations of claim 69 which further defines "*grouping the posts in a plurality of topically organized interlinked information resources according to the rating data, wherein each of the*

interlinked information resources comprises posts relevant to one of the plurality of topics."

Herz merely discloses that target objects may comprise messages in a computer bulletin board or the like. Col 12:29-36. As discussed in connection with claim 50, Herz fails to disclose or suggest serving an information resource comprising a plurality of posts and links to remote topical resources. Although Herz discloses organing information in a cluster tree (cols. 65-66; Figs. 3, 4), it fails to disclose the claimed information resource, and fails to disclose any grouping of posts in the claimed information resource according to active user data. Rose does not make up for the deficiencies of Herz.

Therefore, failing to disclose or suggest all the claimed elements of claim 68, Herz and Rose present no bar to patentability under 35 U.S.C. § 103.

Conclusion

Appellants respectfully request the reversal of the rejection of currently pending Claims 50-69, and allowance of these claims forthwith, for the reasons set forth above.

Appendices

Appealed Claims 50-69 are attached hereto as Appendix A. Evidence and Related Proceedings are attached as Appendices B and C, respectively.

Respectfully submitted,

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Jonathan Jaech
Attorney for Applicant
Registration No. 41,091

CUSTOMER
NUMBER

58688
PATENT TRADEMARK OFFICE

Connolly Bove Lodge & Hutz LLP
355 South Grand Avenue
Suite 3150
Los Angeles, CA 90071-1560
(213) 787-2500

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APPENDIX A

APPEALED CLAIMS

1-49. (Canceled)

50.   (Previously presented) A method for exchanging information within a group of users on a wide area network, comprising the steps of:

serving a topically organized information resource over the wide area network, the information resource comprising a defined topic of information, posts of information from users, and a plurality of links to respective different remote information resources each containing information related to the topic;

receiving user ratings from the users, the user ratings signifying relevance of respective ones of the posts and of the remote information resources to the defined topic, the user ratings determined by respective ones of the users after reviewing respective ones of the posts and of the remote information resources;

aggregating the user ratings to provide aggregate relevance ratings data; and

providing access to the aggregate ratings data in association with the posts of information and with the plurality of links.

51.   (Previously presented) The method of Claim 50, further comprising modifying the topically organized information resource to prioritize information according to the aggregate ratings data.

52.   (Previously presented) The method according to Claim 50, wherein the serving step further comprises serving the information resource including a vote object configured for providing the users an option to rate the posts according to predetermined rating values.

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53. (Previously presented) The method according to Claim 50, further comprising displaying the posts in a ranked order according to the aggregate ratings data.

54. (Previously presented) The method according to Claim 50, further comprising displaying the plurality of links in a ranked order according to the aggregate ratings data.

55. (Previously presented) The method according to Claim 50, further comprising compiling the user ratings for subject matter received from a specific source to provide source-associated rating data.

56. (Previously presented) The method according to Claim 55, further comprising ranking a plurality of information sources according to the source-associated rating data for each source.

57. (Previously presented) The method according to Claim 55, further comprising providing the users an option to receive the source-associated rating data for each user that has provided subject matter to the topically organized information resource.

58. (Previously presented) The method according to Claim 55, further comprising receiving preference information from the users, wherein the preference information specifies a threshold criteria for filtering the posts according to the source-associated rating data applied to the contributor of each post of the posts.

59. (Previously presented) The method according to Claim 50, further comprising presenting the plurality of links on a menu of a web page.

60. (Previously presented)   The method according to Claim 59, further comprising presenting the plurality links grouped in a corresponding plurality of menus of the web page, wherein each of the plurality of menus contains links pertaining to a category of information.

61. (Previously presented)   The method according to Claim 50, further comprising serving at least one of the respective different remote information resources comprising a second defined topic of information, a second plurality of posts of information from users, and a second plurality of links to respective different remote information resources each containing information related to the second topic.

62. (Previously presented)   The method according the Claim 50, further comprising ranking the plurality of links according to a measured use of ones of the plurality of links.

63. (Previously presented)   The method according to Claim 62, further comprising performing an action selected from adding a link to the plurality of links, and deleting a link from the plurality of links, according to a ranking determined in the ranking step.

64. (Previously presented)   The method according to Claim 50, further comprising receiving preference information from the users, wherein the preference information specifies a threshold criteria for filtering the posts according to the aggregate ratings data.

65. (Previously presented)   The method according to Claim 64, further comprising serving an interactive tolerance bar for providing the users an option to send the preference information.

66.   (Previously presented)   The method according to Claim 50, further comprising serving at the respective different remote information resources each comprising at least one link back to the information resource.

67.   (Previously presented)   The method according to Claim 66, further comprising ranking the plurality of links according to measured activity of the at least one link back on the different remote information resources.

68.   (Previously presented)   The method according to Claim 50, further comprising defining a plurality of topics for the posts of information, and storing the topics in the memory.

69.   (Previously presented)   The method according to Claim 68, further comprising grouping the posts in a plurality of topically organized interlinked information resources according to the rating data, wherein each of the interlinked information resources comprises posts relevant to one of the plurality of topics.

APPENDIX B

EVIDENCE

NONE.

APPENDIX C

RELATED PROCEEDINGS

NONE.